

Scott E. Davis, OSB #022883
Email: scott.davis@klarquist.com
KLARQUIST SPARKMAN, LLP
121 SW Salmon Street, Suite 1600
Portland, OR 97204
Telephone: 503-595-5300
Facsimile: 503-595-5301

*Attorneys for Defendant/Counter-Plaintiff
GoldToeMoretz, LLC*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

**COLUMBIA SPORTSWEAR COMPANY,
COLUMBIA SPORTSWEAR NORTH
AMERICA, INC., and COLUMBIA
SPORTSWEAR USA CORPORATION,**

Plaintiffs,

v.

GOLDTOEMORETZ, LLC, a Delaware
limited liability company,

Defendant.

GOLDTOEMORETZ, LLC,

Counter-Plaintiff,

v.

COLUMBIA SPORTSWEAR COMPANY,

Counter-Defendant.

Case No. 11-cv-181-MO

**GOLDTOEMORETZ, LLC'S MOTION FOR
PRELIMINARY INJUNCTION**
REQUEST FOR ORAL ARGUMENT

**GOLDTOEMORETZ, LLC'S MOTION
FOR PRELIMINARY INJUNCTION**

LOCAL RULE 7-1 CERTIFICATION

On April 5, 2011, counsel for the parties held a telephonic conference concerning this Motion, followed by written correspondence regarding this dispute. The parties were unable to reach an agreement.

MOTION

Defendant/Counterclaim-Plaintiff GoldToeMoretz, LLC (“GTM”) hereby moves this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, for a preliminary injunction enjoining Plaintiff/Counterclaim-Defendant Columbia Sportswear Company (“Columbia”), and any other persons with actual notice and acting in active concert or participation, from further violating GTM’s trademark and associated rights. In particular, Columbia has infringed and may continue to infringe GTM’s three triangles mark shown below and made the subject of U.S. Registration No. 2,954,083 (“3 Triangles Mark”) by using a confusingly similar designation (“Infringing 3 Triangles Design”) on Columbia’s socks as depicted below.



GTM’s 3 Triangles Mark



Columbia’s Infringing 3 Triangles Designation

As set forth in the accompanying *Memorandum in Support of GoldToeMoretz, LLC’s Motion for Preliminary Injunction* and supporting papers, filed contemporaneously herewith, Columbia’s infringing activities have caused and will continue to cause irreparable harm to GTM unless enjoined.

The Court should preliminarily enjoin Columbia and others subject to an injunction from causing further harm to GTM's trademark rights and related goodwill because GTM is substantially likely to prevail on the merits of its Lanham Act, common law, and other statutory claims for trademark infringement and unfair competition; and GTM has been irreparably injured and will continue to suffer irreparable injury if the requested injunctive relief is not granted. As well, the balance of harm to the parties weighs overwhelmingly in GTM's favor, and it is in the public's interest to grant preliminary relief to prevent further harm to consumers as a result of Columbia's conduct.

WHEREFORE, GTM respectfully requests that the Court enter a preliminary injunction providing and ordering that Columbia, its officers, directors, agents, principals, divisions, sales representatives, servants, employees, resellers, associates, subsidiaries, affiliates, attorneys, successors and assigns, and all persons with actual notice acting by, through, under or in active concert or in participation with or controlled, either directly or indirectly, by any of them, be:

1. Enjoined from using the Infringing 3 Triangles Designation in connection with the manufacturing, packaging, labeling, importation, exportation, advertising, promoting, marketing, offering, selling or distribution of socks and any other goods in the United States; and

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2. Required to remove all use of the Infringing 3 Triangles Designation from their sales aids, advertisements, and any other promotional material or medium.

GTM respectfully requests its motion for preliminary injunction be heard as soon as possible.

Respectfully submitted,

Dated: May 13, 2011

By: s/Scott E. Davis
Scott E. Davis, OSB #022883
Email: scott.davis @klarquist.com
KLARQUIST SPARKMAN, LLP
121 SW Salmon Street, Suite 1600
Portland, OR 97204
Telephone: 503-595-5300
Facsimile: 503-595-5301

*Attorneys for Defendant/Counter-Plaintiff
GoldToeMoretz, LLC*

Larry C. Jones (NC Bar #19357)
(pro hac vice application to be filed)
Email: larry.jones@alston.com
Jason M. Sneed (NC Bar #29593)
(pro hac vice application to be filed)
Email: Jason.sneed@alston.com
Theresa Conduah (NC Bar #37613)
(pro hac vice application to be filed)
Theresa.conduah@alston.com
ALSTON & BIRD LLP
101 S Tryon Street, Suite 4000
Charlotte, NC 28280
Telephone: 704-444-1019

Of Counsel

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2011, a copy of the foregoing GOLDTOEMORETZ, LLC'S MOTION FOR PRELIMINARY INJUNCTION was filed electronically. Notice of this filing will be sent to the parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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